

AMENDED IN SENATE MAY 8, 2008
AMENDED IN SENATE JULY 25, 2007

Senate Constitutional Amendment

No. 13

Introduced by Senator Torlakson

May 31, 2007

Senate Constitutional Amendment No. 13—A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by adding Section 37 to Article XIII thereof, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

SCA 13, as amended, Torlakson. Taxation: cigarettes.

Existing laws set forth in the California Constitution and in statutory provisions either impose or authorize the imposition of state or local sales and use taxes upon the gross receipts from the sale within the taxing jurisdiction of, or the storage, use, or other consumption in this jurisdiction of, tangible personal property.

The Cigarette and Tobacco Products Tax Law imposes a tax on every distributor of cigarettes and tobacco products at specified rates, including additional taxes imposed under the Tobacco Tax and Health Protection Act of 1988 (Proposition 99), and the California Families and Children Act of 1998 (Proposition 10).

This measure would, commencing on or after the first day of the first calendar quarter commencing more than 90 days on or after the effective date of this measure, impose an excise tax on the distribution of cigarettes at the rate of \$0.105 for each cigarette distributed. The revenues collected from the additional tax would be deposited in the Tobacco Excise Tax Account and would be allocated, upon appropriation by the Legislature, for ~~health-related purposes, including~~

~~a prescribed amount of moneys for deposit in the Cigarette and Tobacco Surtax Fund and the Breast Cancer Fund, to reimburse any losses that are attributable to the decrease in the consumption of cigarettes resulting from the imposition of a tax under this measure~~ *certain health- and child-related purposes.*

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

1 *Resolved by the Senate, the Assembly concurring,* That the
2 Legislature of the State of California at its 2007–08 Regular
3 Session commencing on the fourth day of December 2006,
4 two-thirds of the membership of each house concurring, hereby
5 proposes to the people of the State of California, that the
6 Constitution of the State be amended as follows:

7 That Section 37 is added to Article XIII thereof, to read:

8 SEC. 37. (a) In addition to any other tax imposed under the
9 Cigarette and Tobacco Products Tax Law (Part 13 (commencing
10 with Section 30001) of Division 2 of the Revenue and Taxation
11 Code), or its successor statute, an excise tax is hereby imposed
12 upon every distributor of cigarettes at the rate of one hundred five
13 mills (\$0.105) for each cigarette distributed on and after the first
14 day of the first calendar quarter commencing more than 90 days
15 after the effective date of this section.

16 (b) (1) Every dealer and wholesaler, for the privilege of holding
17 or storing cigarettes for sale, use, or consumption, shall pay a floor
18 stock tax for each cigarette in his or her possession or under his
19 or her control in this state at 12:01 a.m. on the first day of the first
20 calendar quarter commencing more than 90 days after the effective
21 date of this section at the rate of one hundred five mills (\$0.105)
22 for each cigarette.

23 (2) Every dealer and wholesaler shall file a return with the State
24 Board of Equalization (hereafter state board) on or before the first
25 day of the first calendar quarter commencing more than 180 days
26 after the effective date of this section on a form prescribed by the
27 state board, showing the number of cigarettes in his or her
28 possession or under his or her control at 12:01 a.m. on the first
29 day of the first calendar quarter commencing more than 90 days
30 after the effective date of this section. The amount of tax shall be
31 computed and shown on the return.

(c) (1) Every licensed cigarette distributor, for the privilege of distributing cigarettes and for holding or storing cigarettes for sale, use, or consumption, shall pay a cigarette indicia adjustment tax for each California cigarette tax stamp that is affixed to any package of cigarettes and for each unaffixed California cigarette tax stamp in his or her possession or under his or her control at 12:01 a.m. on the first day of the first calendar quarter commencing more than 90 days after the effective date of this section at the following rates:

(A) Two dollars and six hundred twenty-five mills (\$2.625) for each stamp bearing the designation “25.”

(B) Two dollars and ten cents (\$2.10) for each stamp bearing the designation “20.”

(C) One dollar and five cents (\$1.05) for each stamp bearing the designation “10.”

(2) Every licensed cigarette distributor shall file a return with the state board on or before the first day of the first calendar quarter commencing 180 days after the effective date of this section on a form prescribed by the state board, showing the number of stamps described in subparagraphs (A), (B), and (C), of paragraph (1). The amount of tax shall be computed and shown on the return.

(d) The taxes imposed under this section shall be administered and collected in accordance with the Cigarette and Tobacco Products Tax Law, or its successor statute.

(e) All revenues, less refunds, derived from a tax imposed pursuant to this section shall be transferred to the Tobacco Excise Tax Account, which is to be created in the General Fund and shall, upon appropriation by the Legislature, be allocated for each fiscal year exclusively as follows:

~~(1) Fifty percent to fund children’s health care.~~

~~(2) Fifteen percent to fund tobacco cessation services.~~

~~(3) Fifteen percent to fund general health care.~~

~~(4) Five percent to fund lung cancer research, especially research regarding early detection, prevention, and treatment methods.~~

~~(5) (A) Up to 15 percent to be apportioned between the Cigarette and Tobacco Products Surtax Fund, established pursuant to Section 30122 of the Revenue and Taxation Code, and the Breast Cancer Fund, established pursuant to Section 31361.6 of the Revenue and Taxation Code, to the extent necessary to offset reductions in the amounts of moneys deposited in those funds that~~

1 are determined by the State Board of Equalization to be attributable
2 to the decrease in the consumption of cigarettes that directly results
3 from the levy of the tax imposed under this section. For purposes
4 of this paragraph, the board shall determine, for each fiscal year
5 for which a tax is levied under this section, the resulting reductions
6 in the amounts of moneys deposited in each of the funds.

7 (B) If the amount available for allocation under this paragraph
8 is insufficient to offset the reductions in deposits described in
9 subparagraph (A), the amount available shall be apportioned
10 between the two funds in shares that correspond to each fund's
11 percentage share of the reduction in the combined amount of
12 moneys deposited in the two funds.

13 (C) If the amount available for allocation under this paragraph
14 exceeds the amount necessary to fully offset the reductions in
15 deposits described in subparagraph (A), the excess portion of that
16 amount shall be allocated among those purposes specified in
17 paragraphs (1) to (4), inclusive, in shares that correspond to the
18 proportionate shares of the total amount of moneys allocated for
19 each of these purposes that are designated under those paragraphs.
20 to fund the following:

21 (1) *Children's health care.*

22 (2) *Tobacco cessation services.*

23 (3) *Lung cancer research, especially research regarding early
24 detection, prevention, and treatment methods.*

25 (4) *General health care, and particularly to provide
26 supplementary funding for the Medi-Cal program (Chapter 7
27 (commencing with Section 14000) of Part 3 of Division 9 of the
28 Welfare and Institutions Code), or its successor, that will ensure
29 that the amount of funding for each fiscal year for that program,
30 or its successor, is no less than the amount of funding for that
31 program for the 2007–08 fiscal year, prior to any reduction in
32 funding for that program made during that fiscal year.*

33 (5) *Children's services, including foster care services, child
34 care services, and child welfare services.*

35 (6) *Programs relating to autism spectrum disorders, including
36 funding to aid the providers of services for children and adults
37 with autism disorders.*

38 (7) *Universal dental care.*

39 (8) *Elementary and secondary school programs to provide
40 school meals, physical education classes, and health classes.*

1 (f) Revenues derived from the taxes imposed pursuant to this
2 section are not proceeds of taxes within the meaning of Section 9
3 of Article XIII B or State General Fund proceeds of taxes within
4 the meaning of Section 8 of Article XVI.

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